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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/023,134	12/18/2001	Steven Ausnit	ITW-13115	4729

23566 7590 06/25/2003

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NEW YORK, NY 10022-7519

EXAMINER

MEREK, JOSEPH C

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 06/25/2003

4

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/023,134

Applicant(s)

AUSNIT, STEVEN

Examiner

Joseph C. Merek

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 December 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 December 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2. 6) ☐ Other: _____

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DETAILED ACTION

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "the zipper comprises first and second stomped portions, wherein the first edge of the membrane is blended into the first stomped portion and the second edge is blended into the second stomped portion" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Machacek et al in view of Ausnit (US 4,892,414). Regarding claim 1, Machacek et al teaches a zipper bag with a slider where the slider does not have a separating finger but does not teach the membrane of a gauge thin enough to be captured between the male

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and female members when the zipper is closed and does not teach the membrane being connected to and extending between the male and female members. Ausnit '414, as seen in Figs. 6, 14, and 19, teaches a membrane that is thin enough to be interengageable between the male and female profiles. It would have been obvious to employ the membrane of Ausnit in the bag of Machacek et al to provide for the tamper evident or tamper discouraging feature or the liquid tight seal of Ausnit '414. As seen in Fig. 14 of Ausnit '414 the membrane is connected to the male and female members. Regarding claim 2, see Fig. 14 of Ausnit '414, where the membrane extends from the top of the one member to the top of the other member. The top is a matter of orientation and the location where the membrane is attached is the top. Regarding claim 3, see Fig. 19 of Ausnit '414, where the membrane extends from the top of one member to the bottom of the other member. Regarding claims 4 and 6 see Figs. 1-7 of Machacek et al, where the fastener as claimed is attached to the mouth. Regarding claim 5, see Fig. 16 of Ausnit '414, where the membrane is connected to only one of the male and female members. Regarding claim 7, see Figs. 1-7 of Machacek et al, where the modified receptacle of Machacek et al has a mouth at an upper end with a closed plastic zipper 10 attached to the mouth, and a slider 42 is mounted to the zipper, where 14 and 18 are the first and second interlocked profile structures having an interstice therebetween, the slider does not have a separating finger for separating the first and second profiled structures. See Figs. 7, where the pliable membrane is secured to the first interlocked structure and part of the membrane being located in and having a profile conformed to the interstice. The modified receptacle of Machacek et al

has an interstice that will receive the membrane as seen in Fig. 7 of Ausnit '414.

Regarding claim 8, see Fig. 14 of Ausnit '414 where the membrane can be connected to both profiled structures. Regarding claim 9, see Col. 3, lines 40 and 41 and Fig. 2 of Machacek et al, where the bag 86 is sealable to the base extensions or flanges 28 and 30 and the flanges or extensions are secured to the profiled structures. The bag walls are secured to the flanges as claimed. Regarding claim 10, see Col. 3, lines 22-25, where the first profile structure 12 has a male profile and the second profile structure 14 has a female profile. Regarding claim 11, see Fig. 1 and Col. 3, lines 19-23 of Ausnit '414, where the receptacle and the zipper comprises first and second stomped portions at the right and left sealed edges of the bag and the gasket flange or membrane is coextensive with the length of the zipper. It would have been obvious to blend the membrane into the sealed or stomped edges to provide the desired coextensive seal as required by Ausnit '414. Regarding claim 12, see the discussion of claims 7-10 above and Fig. 14 of Ausnit '414 where the membrane is secure to both male and female profiles. Regarding claim 13, see Fig. 14 of Ausnit '414 where the membrane is folded. Regarding claim 14, see Fig. 19 of Ausnit '414, where the membrane is secured to the first and second profiled structures at different elevations. Regarding claim 15, see the discussion of claim 7 above. Regarding claim 16, see the discussion of claim 13 above. Regarding claim 17, see the discussion of claim 14 above. Regarding claim 18, see Fig. 16 of Ausnit '414 where the free edge is shown.

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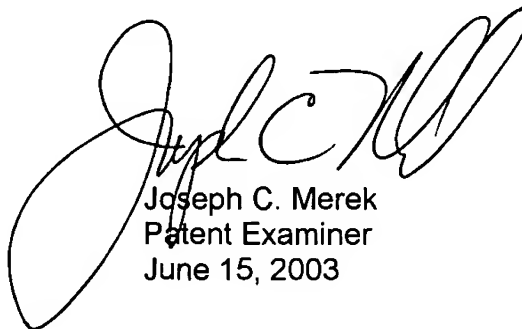
Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ausnit US 2002/0154837 is cited for teaching a membrane with a zipper. Ausnit '518 is cited for Figs. 1 and 2. Boeckmann et al '775 and Boeckmann et al '527 are both cited for teaching a zipper with a thin membrane. Post is cited for teaching a membrane located in the zipper. Ausnit (FR 2,777,498) and Ausnit (FR 2,777,499) are both cited for teaching a zipper with a membrane.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph C. Merek whose telephone number is (703) 305-0644. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee Young can be reached on (703) 308-2572. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3579 for regular communications and (703) 308-3579 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.



Joseph C. Merek
Patent Examiner
June 15, 2003